

FILED 05 DEC 02 08:05 USDC-ORE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

RONALD D. JOLING,

Petitioner,

Civ. No. 05-6060-HO

v.

ORDER

UNITED STATES OF AMERICA,

Respondent.

Petitioner Ronald D. Joling filed a petition to quash summonses issued by an agent of the Internal Revenue Service (IRS) to third-party record-keepers. Respondent United States filed a motion for partial dismissal and summary denial of the petition.

Discussion

The petition is moot with respect to summonses issued to Infinity Group Company Trust and Land O'Lakes, Inc. Agent Schneider notified Infinity and Land O'Lakes that compliance with the summonses is not expected. Schneider Decl., ¶ 8, Exs. I, J.

This court lacks jurisdiction over proceedings to quash the summons issued to Equifax Information Services, LLC, because the record demonstrates that Equifax is not found in this district. 29 U.S.C. § 7609(h)(1); Schneider Decl., ¶ 9, Ex. B. Schneider's declaration demonstrates a prima facie case for the enforcement of all summonses identified in paragraph II of the petition, except the summonses issued to Infinity and Land O'Lakes. Fortney v. United States, 59 F.3d 117, 119 (9th Cir. 1995) (citing to United States v. Powell, 379 U.S. 48, 57-58 (1964)). The summonses were issued in furtherance of Schneider's investigation to determine petitioner's federal income tax liability for the year ending December 31, 2002, the information sought may be relevant to that determination; with the exception of information received in response to the summonses and placed under seal, the IRS does not already possess the information sought; and Schneider followed all procedures required by the Internal Revenue Code for issuance and service of the summonses, and acted in accordance with 26 U.S.C. §§ 7602, 7603 and 7609. Schneider Decl., ¶¶ 2, 3, 5-7, 10, 12. Petitioner makes no counter factual showing.

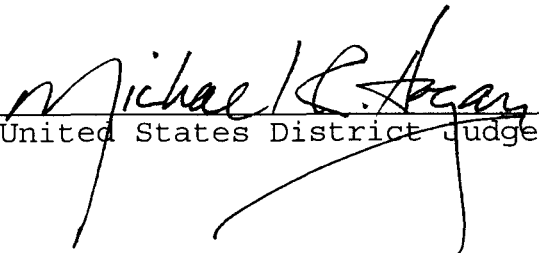
Conclusion

Based on the foregoing, respondent's motion for partial dismissal and summary denial of the petition [#3] is granted. The petition is dismissed as it relates to summonses issued to

Infinity Group Company Trust, Land O'Lakes, Inc. and Equifax Information Services, LLC, and is denied as it relates to all challenged summonses save those issued to Infinity Group Company Trust and Land O'Lakes, Inc. This proceeding is dismissed.

IT IS SO ORDERED.

DATED this 1st day of December, 2005.


United States District Judge